

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 503

Introduced by Senator Figueroa

February 18, 2005

~~An act to add Section 11099.5 to the Government Code, relating to state agencies.~~ *An act to amend Sections 6253.4 and 6253.9 of the Government Code, relating to public records.*

LEGISLATIVE COUNSEL'S DIGEST

SB 503, as amended, Figueroa. ~~California State Library. Public records.~~

(1) *The California Public Records Act requires public records to be open to inspection at all times during the office hours of the state or local agency. Existing law authorizes every agency to adopt regulations stating the procedures to be followed when making its records available. Existing law requires specified state and local bodies to establish written guidelines for accessibility of records.*

This bill would require each state or local body identified in existing law that maintains an Internet Web site, to make the written guidelines accessible from the homepage of its Web site through a link titled "Guidelines for How to Obtain Public Records."

(2) *Existing law also requires, unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure under the act that is in an electronic format to make that information available in an electronic format when requested by any person.*

This bill would require an agency that maintains an Internet Web site and that has information that is an identifiable public record available to it in electronic format to make that information accessible

to the public for a minimum of 3 years from the homepage of the agency's Web site through a link.

By imposing additional duties on local public agencies with regard to making public records accessible through a link to the local agency's webpage, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law establishes the California State Library as a division in the State Department of Education.~~

~~This bill would require each state agency to notify the California State Library when digital documents are published on its Web site to facilitate archiving by the State Library.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6253.4 of the Government Code is
- 2 amended to read:
- 3 6253.4. (a) Every agency may adopt regulations stating the
- 4 procedures to be followed when making its records available in
- 5 accordance with this section.
- 6 The following state and local bodies shall establish written
- 7 guidelines for accessibility of records. A copy of these guidelines
- 8 shall be posted in a conspicuous public place at the offices of
- 9 these bodies, and a copy of the guidelines shall be available upon
- 10 request free of charge to any person requesting that body's
- 11 records:
- 12 Department of Motor Vehicles
- 13 Department of Consumer Affairs
- 14 Department of Transportation
- 15 Department of Real Estate
- 16 Department of Corrections

1 Department of the Youth Authority
2 Department of Justice
3 Department of Insurance
4 Department of Corporations
5 Department of Managed Health Care
6 Secretary of State
7 State Air Resources Board
8 Department of Water Resources
9 Department of Parks and Recreation
10 San Francisco Bay Conservation and Development
11 Commission
12 State Board of Equalization
13 State Department of Health Services
14 Employment Development Department
15 State Department of Social Services
16 State Department of Mental Health
17 State Department of Developmental Services
18 State Department of Alcohol and Drug Abuse
19 Office of Statewide Health Planning and Development
20 Public Employees' Retirement System
21 Teachers' Retirement Board
22 Department of Industrial Relations
23 Department of General Services
24 Department of Veterans Affairs
25 Public Utilities Commission
26 California Coastal Commission
27 State Water Resources Control Board
28 San Francisco Bay Area Rapid Transit District
29 All regional water quality control boards
30 Los Angeles County Air Pollution Control District
31 Bay Area Air Pollution Control District
32 Golden Gate Bridge, Highway and Transportation District
33 Department of Toxic Substances Control
34 Office of Environmental Health Hazard Assessment
35 (b) Guidelines and regulations adopted pursuant to this section
36 shall be consistent with all other sections of this chapter and shall
37 reflect the intention of the Legislature to make the records
38 accessible to the public. The guidelines and regulations adopted
39 pursuant to this section shall not operate to limit the hours public
40 records are open for inspection as prescribed in Section 6253.

1 (c) *If a state or local body listed in subdivision (a) maintains*
2 *an Internet Web site, the guidelines required by subdivision (a)*
3 *shall be accessible from the homepage of its Web site through a*
4 *link titled "Guidelines for How to Obtain Public Records."*

5 SEC. 2 Section 6253.9 of the Government Code is amended to
6 read:

7 6253.9. (a) Unless otherwise prohibited by law, any agency
8 that has information that constitutes an identifiable public record
9 not exempt from disclosure pursuant to this chapter that is in an
10 electronic format shall make that information available in an
11 electronic format when requested by any person and, when
12 applicable, shall comply with the following:

13 (1) The agency shall make the information available in any
14 electronic format in which it holds the information.

15 (2) Each agency shall provide a copy of an electronic record in
16 the format requested if the requested format is one that has been
17 used by the agency to create copies for its own use or for
18 provision to other agencies. The cost of duplication shall be
19 limited to the direct cost of producing a copy of a record in an
20 electronic format.

21 (b) Notwithstanding paragraph (2) of subdivision (a), the
22 requester shall bear the cost of producing a copy of the record,
23 including the cost to construct a record, and the cost of
24 programming and computer services necessary to produce a copy
25 of the record when either of the following applies:

26 (1) In order to comply with the provisions of subdivision (a),
27 the public agency would be required to produce a copy of an
28 electronic record and the record is one that is produced only at
29 otherwise regularly scheduled intervals.

30 (2) The request would require data compilation, extraction, or
31 programming to produce the record.

32 (c) Nothing in this section shall be construed to require the
33 public agency to reconstruct a record in an electronic format if
34 the agency no longer has the record available in an electronic
35 format.

36 (d) If the request is for information in other than electronic
37 format, and the information also is in electronic format, the
38 agency may inform the requester that the information is available
39 in electronic format.

1 (e) Nothing in this section shall be construed to permit an
2 agency to make information available only in an electronic
3 format.

4 (f) Nothing in this section shall be construed to require the
5 public agency to release an electronic record in the electronic
6 form in which it is held by the agency if its release would
7 jeopardize or compromise the security or integrity of the original
8 record or of any proprietary software in which it is maintained.

9 (g) Nothing in this section shall be construed to permit public
10 access to records held by any agency to which access is
11 otherwise restricted by statute.

12 (h) *If an agency maintains an Internet Web site, information*
13 *required to be provided pursuant to subdivision (a) that is also*
14 *available to the agency in electronic format shall be made*
15 *accessible for a minimum of three years from the homepage of*
16 *the agency's Web site, through a link on the homepage titled*
17 *"Performance-related and Other Public Record Information."*

18 *SEC. 3 If the Commission on State Mandates determines that*
19 *this act contains costs mandated by the state, reimbursement to*
20 *local agencies and school districts for those costs shall be made*
21 *pursuant to Part 7 (commencing with Section 17500) of Division*
22 *4 of Title 2 of the Government Code.*

23 ~~SECTION 1. Section 11099.5 is added to the Government~~
24 ~~Code, to read:~~

25 ~~11099.5. In order to promote government efficiency, each~~
26 ~~state agency shall notify the California State Library when digital~~
27 ~~documents are published on its Web site to facilitate archiving by~~
28 ~~the California State Library.~~